

Appl. No. 10/634,495
Amdt. Dated 08/28/2004
Reply to Office Action of 09/16/2004

Remarks/Arguments

Applicant would like to thank the examiner for the thorough review of the present application.

The examiner's Advisory Action states applicant's Amendment filed on 8/25/04 raises new subject matter/issues that require further consideration and/or search. Accordingly, applicant has amended independent claims 1, 8 and 15 to remove any new subject matter/issues previously included in such claims. Independent claims 1, 8 and 15 are now identical to the original independent claims filed on 8/6/2003. Such independent claims have been further amended to include the recitations of dependent claims 2, 9 and 16, respectively. Applicant will rely on its originally filed subject matter to overcome the examiner's pending rejections.

Currently amended independent claims 1, 8 and 15 recite, inter alia,

said cable means comprises:

- a support member;
- a first elongate cable having opposed end portions connected to said brake handle and said support member respectively;
- a second elongate cable connected to said support member and one said plurality of levers respectively; and
- a third elongate cable connected to said support member and another said plurality of levers respectively.

Under 35 USC § 103(a), the examiner asserts such claim recitations would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made because it would have been obvious to include a support member in Canfield, Jr.'s brake system according to the teachings of Lumpkin in order to better equalize braking forces. Applicant respectfully submits the examiner has mischaracterized the Canfield, Jr. and Lumpkin references and has used improper hindsight reconstruction to teach applicant's claimed invention.

A reference should be considered as a whole, and portions arguing against or teaching away from the claimed invention must be considered. See *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 230 USPQ 416 (Fed. Cir. 1986).

Appl. No. 10/834,495
Amdt. Dated 09/28/2004
Reply to Office Action of 09/16/2004

Lumpkin fails to teach applicant's second and third elongated cables, as noted above. Rather, Lumpkin discloses a first cable 112 and a second cable 40 wherein Lumpkin's second cable 40 is not connected to a support member 114 (see FIG. 1). Second cable 40 is position over the support member 114 and is guided therealong (see FIG. 1). Lumpkin also fails to disclose a third elongated cable, as it only employs first 112 and second 40 cables.

In addition, Canfield, Jr. teaches away from the present invention because is discloses a wheelbarrow brake assembly that is normally "on". Such a brake assembly employs a pair of compressible springs that are engaged with a wheelbarrow wheel until a user presses the handle lever to release the brake shoes from the wheel (see column 2, lines 54-60). Accordingly, Canfield, Jr. teaches away from Lumpkin because Lumpkin's brake assembly is normally "off". It would not have been obvious to combine the teachings of Lumpkin and Canfield, Jr. because Lumpkin teaches the desirability to more effectively engage a wheelbarrow wheel while Canfield, Jr. doesn't need such a function because its brake shoes are normally engaged.

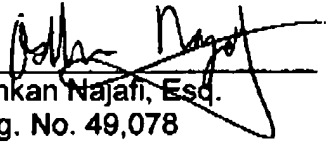
In view of these considerations, it is respectfully submitted that the examiner's rejections of the claims should be withdrawn. Applicant respectfully submits the currently amended claims 1, 8 and 15 should be considered as patentably distinguishing over the prior art of record because no cited reference discloses all the elements in manner claimed in independent claims 1, 8 and 15.

Should the examiner consider necessary or desirable to make formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by examiner's Amendment, if the examiner feels this would facilitate passage of the case to issuance. Alternatively, should the examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned attorney.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Appl. No. 10/634,495
Amdt. Dated 09/28/2004
Reply to Office Action of 09/16/2004

Respectfully submitted,
Law Office of Ashkan Najafi, P.A.

By 
Ashkan Najafi, Esq.
Reg. No. 49,078
Customer No. 34,356

113 Lamplighter Lane
Ponte Vedra Beach, FL 32082
Telephone: 904-551-6110
Facsimile: 904-551-6111
patentattorney@patent-usa.com